

1 **MICHAEL MEE, ESQ.**

2 LIBERATORS CRIMINAL DEFENSE

3 Bar No. 13726

4 400 S. 4th Street #500

5 Las Vegas, NV 89101

6 E-mail: mmee@defenselawyer Vegas.com

7 Phone: 702-990-0190

8 Fax: 702-442-9616

9 *Counsel for Plaintiff*

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 JOSE DECASTRO,

Case No 2:23-cv-00580-APG-EJY

13 Plaintiff,

14 v.

15 LAS VEGAS METROPOLITAN POLICE

16 DEPARTMENT, et al.,

17 Defendant.

18 **PLAINTIFF'S PROPOSED TRIAL ORDER**

19 COMES NOW Plaintiff Jose DeCastro, through undersigned counsel, who submits the
20 following proposed Pretrial Order in response to this Court's Order (ECF 110). Plaintiff submits
21 his own pretrial order rather than a joint pretrial order for the following reasons. Plaintiff
22 received Defendants proposed pretrial order and submitted his own sections and proposed
23 changes/objections to their draft on June 20, 2025.

24 Nevertheless, counsel for Defendants indicated they had to leave the office at 12:00 p.m.
25 that day and were instead submitting their own individual proposed trial Order. As such the
26 parties were unable to reach an agreement on a Joint Proposed Order.

As such, Plaintiff likewise submits his own individual Proposed Trial Order herein.

Dated this 20th day of June, 2025.

/s/ Michael Mee, Esq.
MICHAEL MEE, ESQ.
Nevada Bar #: 13726
400 South Street #500
Las Vegas, Nevada 89101
Tel: (702) 990-0190
attorneymichaelmee@gmail.com
Counsel for Plaintiff.

MEMORANDUM OF POINTS AND AUTHORITIES

I. NATURE OF THE ACTION.

A. BACKGROUND.

Plaintiff Jose DeCastro sues the Las Vegas Metropolitan Police Department (LVMPD) and LVMPD officer Branden Bourque, Jason Torrey, Chadly Dingle, Brandon Sorenson, Jesse Sandoval, and Clinton Doolittle. DeCastro contends the officers violated his constitutional rights when they unreasonably searched and seized him because he was exercising his First Amendment rights to video record a police encounter, and thereafter unlawfully arrested him, including causing damages and pain and suffering.

B. REMAINING PARTIES AND ISSUES FOR TRIAL.

On September 13, 2024, this Court granted in part defendants' motion for summary judgment. ECF No. 100. In that order, this Court granted in part DeCastro's motion to reconsider the Court's order dismissing certain federal law and state law claims and ordered the parties to supplement their state law claim briefing. On April 25, 2025, the Court issued its order denying defendants' renewed motion for summary judgment. ECF No. 109. Based on these orders, the following claims issues remain for trial:

1. State law false arrest and unlawful search and seizure.

2. State law invasion of privacy.
3. 42 U.S.C. § 1983 excessive force and state law excessive force/battery.
4. 42 U.S.C. § 1983 Failure to intervene.
5. 42 U.S.C. § 1983 First Amendment and Nevada state law free speech violation.
6. 42 U.S.C. § 1983 First Amendment retaliation.
7. 42 U.S.C. § 1983 elective enforcement.

II. STATEMENT OF JURISDICTION.

Plaintiff's federal claims are brought pursuant to 42 U.S.C. §1983 and his state law claims are brought pursuant to 28 U.S.C. §§1331 and 1343(a)(3) and (4).

III. STATEMENT OF UNCONTESTED FACTS.

1. On or about March 15, 2023, at approximately 4:30 PM Pacific time, Plaintiff Jose DeCastro encountered a police interaction involving a woman in a silver Hyundai Elantra and Officer Bourque of the Las Vegas Metropolitan Police Department, who was seated in a Ford police interceptor displaying the LVMPD insignia and the number 19084.

2. Plaintiff began recording the interaction on his cell phone from a location approximately 10 feet away from the woman in the vehicle and took care not to physically place himself between Officer Bourque and the woman.

3. Within seconds of Plaintiff beginning to film, Officer Bourque exited his patrol vehicle and instructed Plaintiff to back up. Plaintiff complied by stepping further away, increasing the distance between himself and the interaction.

4. Officer Bourque continued issuing commands for Plaintiff to move and indicated that failure to comply would result in detention. Plaintiff verbally asserted his First Amendment rights, identified himself as a member of the press, and stated that he was more than 10 feet away.

1 5. Officer Bourque instructed the woman in the vehicle to leave and then
2 approached Plaintiff directly

3 6. Plaintiff requested a supervisor be called to the scene.

4 7. Plaintiff was informed he was under arrest and was physically detained by
5 officers on the scene.

6 8. Plaintiff informed the officers of a prior shoulder injury. In response, he was
7 placed in two sets of handcuffs.

8 9. Plaintiff remained in handcuffs for an extended period and complained of pain
9 in his elbow during the detention.

10 10. Plaintiff was ultimately transported to the Clark County Detention Center and
11 released several hours later with citations, not formal charges.

12 11. The Eighth Judicial District Court of Nevada subsequently overturned Plaintiff's
13 conviction, finding that officers violated his constitutional rights during the encounter and that
14 the detention and arrest were not supported by probable cause.
15

16 **IV. STATEMENT OF CONTESTED FACTS.**

17 1. Whether DeCastro maintained a reasonable distance and non-threatening
18 posture throughout his recording of the police encounter, such that no reasonable officer would
19 have perceived a threat or obstruction.

20 2. Whether DeCastro clearly and repeatedly asserted his First Amendment rights
21 and identified himself as a member of the press, and whether those assertions provoked an
22 escalation by Bourque.

23 3. Whether Bourque lacked reasonable suspicion or probable cause to detain
24 DeCastro at any point during the encounter.

25 4. Whether DeCastro's verbal protests constituted protected speech under the First
26 Amendment and whether officers used force in direct response to that speech.
27
28

1 5. Whether Bourque’s stated justification for the arrest—protecting Jane’s
2 privacy—was pretextual and unsupported by law.

3 6. Whether any LVMPD officer informed DeCastro that he was under
4 investigation or interfering with an official investigation, and whether their failure to do so
5 undermines the legality of the detention.

6 7. Whether Defendants used excessive force by applying prolonged and painful
7 pressure to DeCastro’s elbow despite his repeated complaints of pain and notification of a prior
8 shoulder injury.

9 8. Whether the actions of officers at the scene—including repeated physical
10 contact, refusal to loosen restraints, and striking of the groin—were malicious, punitive, or
11 intended to cause humiliation.

12 9. Whether Bourque’s comments about “First Amendment Auditors” reflected a
13 generalized animus toward press activity and contributed to an unconstitutional motive for the
14 arrest.

15 10. Whether DeCastro was targeted and arrested because of his recent coverage of
16 LVMPD in viral online videos, suggesting viewpoint discrimination and retaliatory motive.

17 11. Whether DeCastro was denied timely access to a supervisor or other procedural
18 safeguards during his detention.

19 12. Whether DeCastro was released without any formal charges after being held for
20 approximately five hours, and whether this prolonged detention lacked legal justification.

21 13. Whether the actions of the involved officers, individually or collectively,
22 deviated from LVMPD’s policies on Use of Force and Public Interactions, and whether such
23 deviation reflects deliberate indifference.

24 14. Whether DeCastro suffered lasting neurological harm, including paresthesia and
25 ongoing medical needs, as a direct result of the manner in which force was applied.
26
27
28

1 **V. STATEMENT OF CONTESTED ISSUES OF LAW.**

2 1. Whether a reasonable officer in Bourque's position would have known that
3 detaining or arresting a civilian for filming a police interaction in public violates clearly
4 established First and Fourth Amendment law.

5 2. Whether a police officer's asserted concern for a third-party's "privacy" in
6 public constitutes a lawful basis to detain or arrest a bystander exercising his right to record.

7 3. Whether the prolonged use of force, despite Plaintiff's repeated complaints of
8 pain and notification of prior injury, constitutes a violation of clearly established rights under
9 the Fourth Amendment.

10 4. Whether Sergeant Torrey may be held liable under § 1983 for supervisory
11 liability or failure to intervene, given his alleged ratification of unconstitutional conduct and
12 failure to remedy known violations.

13 5. Whether Defendants' conduct—including alleged fabrication of arrest
14 justifications and excessive use of force—amounts to malicious prosecution in violation of the
15 Fourth and Fourteenth Amendments.

16 6. Whether LVMPD's training and supervision practices, including any custom of
17 tolerance for retaliation against press activity or use of force against First Amendment auditors,
18 give rise to Monell liability.

19 7. Whether Bourque's generalized statements about "First Amendment auditors"
20 and his targeting of DeCastro due to prior press activity reflect viewpoint-based discrimination
21 in violation of the First Amendment.

22 8. Whether DeCastro's First Amendment rights to observe, record, and criticize
23 police officers in public were clearly established at the time of the incident.
24
25
26
27
28

9. Whether the totality of the officers' actions—prolonged squeezing of nerves, physical humiliation, and verbal threats—constitutes a pattern of punitive or retaliatory behavior sufficient to defeat qualified immunity.

10. Whether DeCastro's public interest speech, including recording and documenting police conduct, falls within the core protections of the First Amendment, such that any retaliatory motive is constitutionally actionable.

11. Whether the combination of detention, physical force, and verbal hostility by the officers—absent any articulable suspicion of criminal activity—renders the entire encounter an unlawful seizure under the Fourth Amendment.

12. Whether the government may bar DeCastro from introducing medical evidence or damages testimony where the injuries stem directly from unconstitutional force and are observable.

VI. PLAINTIFF'S EXHIBITS.

1. Plaintiff's Youtube Videos Relating to Incident

2. Photographs of Injured Elbow following Incident.

3. Doctor Bills and notes relating to incident.

4. Plaintiff's Responses to Defendants' Interrogatories and Requests for Productions of Documents.

5. ECF 1 to 110 filed in this case no. 2:23-cv-00580-APG-EJY.

6. All Materials Disclosed by Defendants and listed below incorporated by reference, including but not limited to:

a. CAD Report for Event No. LLV230300064617 (LVMPD 000001 - 000004)

b. Cad until Log by Incident Number (LVMPD 000005 - 000009)

c. IA Statement of Complaint (LVMPD 000010 - 000015)

- d. LVMPD Incident Report (LVMPD 000016 - 000025)
- e. Citation (LVMPD 000026 - 000027)
- f. Declaration of Arrest (LVMPD 000028)
- g. Temporary Custody Record (LVMPD 000029)
- h. LVMPD Detention Services Division Booking Voucher (LVMPD 000030)
- i. IAB Complaint Form (LVMPD 000031)
- j. LVMPD Use of Force Policy 3.110 (LVMPD 000032 - 000066)
- k. LVMPD Arrests Without Warrants Policy 4.102 (LVMPD 000067 - 000070)
- l. Body Worn Camera footage of subject event from the defendant officers
- m. LVMPD Lesson Plans dated December 2015 regarding Policies 3.02, 3.04, 3.19, 3.20, 4.05, 6.13, 8.05, 8.24 and 13.08 (LVMPD 000071 - 000527)
- n. LVMPD Lesson Plans dated February 2016 regarding Policies 3.02, 3.04, 3.19, 3.20, 4.05, 8.05, 8.24, 8.26, 13.08 and 16.19 (LVMPD 000528 – 000893)
- o. LVMPD Lesson Plans dated February 2022 regarding Policies 3.02, 3.04, 3.09, 3.16, 4.05, 6.01, 8.18, 10.08, 13.08 and 16.05 (LVMPD 000894 - 001321)
- p. Radio Dispatch Calls
- q. DeCastro's YouTube Video - *Let's File My Lawsuit Against the Las Vegas Tyrant Cops From My Unlawful Arrest. #audit #court #popo* – April 17, 2023
- r. DeCastro's YouTube Video - *The Las Vegas Metro Police Dept Lawsuit: 12:30PM PST* – April 18, 2023
- s. DeCastro's YouTube Video - *LAWSUIT FILED! DELETELAWZ IS ARRESTED FOR FILMING COPS BY LAS VEGAS METRO P!G BRENDEN BORK* – May 16, 2023
- t. DeCastro's YouTube Video - *#AUDIT #Arrested Las Vegas PD, Lawsuit filed, LVMPD has been Served: Body Cam of Sandoval, NEVADA* – April 29, 2023
- u. DeCastro's YouTube Video - *TEAM DLZ FOLLOWS A RIGID SET OF POLICIES,*

1 *PROCEDURES & PROTOCOLS* – February 4, 2024

2 v. DeCastro’s YouTube Video - *WE DONT STOP* – September 17, 2024

3 w. *Our Nevada Judges, Inc.* Video - *The State of Nevada vs Jose “Chille” DeCastro* –
4 March 19, 2024

5 **VII. ELECTRONIC EVIDENCE.**

6 Plaintiff agrees the parties may present electronic evidence to wit Plaintiff intends to
7 present electronic evidence including Body Worn Camera, Plaintiff’s Youtube Videos, and
8 other disclosed recordings set forth herein for the purposes of jury deliberations.

9 **VIII. DEPOSITIONS.**

10 Unless witnesses are unable, Plaintiff does not intend to offer depositions other than
11 for purposes of impeachment.

12 **IX. WITNESSES.**

13 Plaintiff intends to call the following witnesses at the time of trial:

- 14
- 15 1. Jose DeCastro
16 c/o Attorney Michael Mee, Esq .
17 400 S. 4th Street #500
18 Las Vegas NV 89101
 - 19 2. Sgt. Torrey
20 c/o Marquis Aurbach
21 10001 Park Run Drive
22 Las Vegas, Nevada 89145
23 (702) 382-0711
 - 24 3. Ofc. Bourque
25 c/o Marquis Aurbach
26 10001 Park Run Drive
27 Las Vegas, Nevada 89145
28 (702) 382-0711
 4. Ofc. Dingle
c/o Marquis Aurbach

1 10001 Park Run Drive
2 Las Vegas, Nevada 89145
(702) 382-0711

3 5. Ofc. Sorenson
4 c/o Marquis Aurbach
5 10001 Park Run Drive
6 Las Vegas, Nevada 89145
(702) 382-0711

7 6. Ofc. Sandoval
8 c/o Marquis Aurbach
9 10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711

10 7. Ofc. Doolittle
11 c/o Marquis Aurbach
12 10001 Park Run Drive
13 Las Vegas, Nevada 89145
(702) 382-0711

14 8. Officer Citco # 17673,
15 address unknown

16 9. PO-2 Jason Osborne,
17 address unknown

18 10. PO LT Theodore Weirauch,
address unknown

19 11. PO LT Joshua Younger,
20 address unknown

21
22 **X. TRIAL DATES.**

23 Counsel for Plaintiff are likewise available for trial along the proposed time frame of
24 January 2026 and February 2026.

1 It is expressly understood by the undersigned the Court will set the trial of this matter
2 on one (1) of the agreed upon dates if possible, if not, the trial will be set at the convenience
3 of the court's calendar.

4 **XI. TIME FOR TRIAL.**

5 It is estimated by counsel for Plaintiff that trial will take 5 days.

6 Dated this 20th day of June, 2025.

7
8 **/s/ Michael Mee, Esq.**

9 MICHAEL MEE, ESQ.

10 Nevada Bar #: 13726

400 South Street #500

Las Vegas, Nevada 89101

11 Tel: (702) 990-0190

12 attorneymichaelmee@gmail.com

13 *Counsel for Plaintiff.*

1 **XII. ACTION BY THE COURT.**

2 (a) This case is set down for court/jury trial on the fixed/stacked calendar on
3 _____; Calendar call shall be held on _____.

4 (b) An original and two (2) copies of each trial brief shall be submitted to the clerk
5 on or before _____.

6 (c) Jury trials:

7 (1) An original and two (2) copies of all instructions requested by either
8 party shall be submitted to the clerk for filing on or before _____.

9 (d) Court trials:

10 Proposed findings of fact and conclusions of law shall be filed on or before
11 _____.

12 The foregoing pretrial order has been approved by the parties to this action as evidenced
13 by the signatures of their counsel hereon, and the order is hereby entered and will govern the
14 trial of this case. This order shall not be amended except by order of the court pursuant to
15 agreement of the parties or to prevent manifest injustice.
16
17

18
19 _____
20 UNITED STATES DISTRICT JUDGE

21
22
23 DATED: _____
24
25
26
27
28